

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-210756

DATE: February 22, 1983

MATTER OF: Janke & Company, Inc.

DIGEST:

Protest challenging responsibility of awardee is dismissed because GAO does not review affirmative determinations of responsibility except in circumstances not applicable here.

Janke & Company, Inc. (Janke) protests award of a contract under solicitation No. F41608-82-R-1328 by the Air Force to Hydraulics International, Inc. (Hydraulics). The contract is for the fabricating of triple test stands. We dismiss the protest.

Janke maintains that Hydraulics does not satisfy the minimum responsibility standards set forth in Defense Acquisition Regulation §§ 1-903.1 and 1-903.2 (1976 ed.). Janke contends that Hydraulics does not have the "physical capability" to perform the contract because of the size of its plant and its current work load.

Prior to awarding a contract to Hydraulics, the contracting officer must determine that the company is a responsible prospective contractor, that is, that it has the capacity to perform. Because such a determination involves what is essentially a business judgment, our Office does not review affirmative determinations of responsibility unless there is a showing of possible fraud on the part of the procuring officials or the solicitation contains definitive responsibility criteria which allegedly have not been applied. Beacon Winch Company, B-206513.2, May 18, 1982, 82-1 CPD 478. Neither case applies here.

Accordingly, Janke's protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel

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